

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 15542
[REDACTED]	)	
Petitioner.	)	DECISION
	)	
	)	

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On January 24, 2001, the staff of the Tax Discovery Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer), proposing income tax, penalty, and interest for the taxable years 1996 through 1999 in the total amount of \$10,547.

On March 24, 2001, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not respond to the Tax Commission's hearing rights letter. Therefore, the Tax Commission, having reviewed the file, hereby issues its decision.

The Tax Discovery Bureau (Bureau) received information that the taxpayer was a shareholder of an S-corporation and a partner in a partnership that reported income from Idaho sources. The Bureau contacted the taxpayer and asked about his Idaho filing requirements. The taxpayer responded saying that he had not lived in Idaho for the past 20 years. The Bureau discussed the information it had with the taxpayer and told the taxpayer that, from the schedules K-1 filed by the S-corporation and the partnership, it appeared that he did in fact have an Idaho filing requirement. The taxpayer disagreed saying he had no knowledge of any filing requirement with Idaho.

Based upon the information, the Bureau determined the taxpayer was required to file Idaho income tax returns and prepared returns for the taxpayer. The Bureau sent the taxpayer a Notice of Deficiency Determination, which the taxpayer protested. The taxpayer stated he was a passive investor and, as far as he knew, the corporation and partnership were located in Utah.

Neither the corporation nor partnership told him he had any filing responsibility with the state of Idaho. All pass-through items of income or loss were reported on the taxpayer's Michigan resident returns.

The Tax Commission sent the taxpayer a hearing rights letter setting forth two alternative methods for redetermining the Notice of Deficiency Determination. The taxpayer did not respond. Therefore, based upon the information available, the Tax Commission decided the matter.

The Tax Commission received schedules K-1 from the taxpayer's S-corporation and partnership. The K-1s from the S-corporation showed the taxpayer was a 33.3340% owner of the S-corporation. On the 1996 schedule K-1, the preparer of the K-1 stated that the income of the corporation was Idaho sourced. The K-1s from the partnership showed the taxpayer was a general partner with a 25% interest in the partnership.

The Tax Commission looked at the returns filed by the taxpayer's S-corporation and partnership. Each of the returns showed an apportionment factor to Idaho of 100%. Idaho Code section 63-3026A states that a nonresident individual has Idaho taxable income in the amount of his distributive share of partnership income and his pro rata share of S-corporation income from partnerships and S-corporations transacting business in Idaho. Since the taxpayer's S-corporation and partnership reported 100% of their business income to Idaho, the taxpayer is required to file Idaho income tax returns reporting his share of the partnership's and S-corporation's incomes.

The Bureau prepared returns for the taxpayer based upon the information presented on the schedules K-1 of the taxpayer's partnership and S-corporation. The taxpayer presented nothing to show there were inaccuracies on those returns; therefore, he has not met his burden of

proof. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810, 814, 683 P.2d 846, 850 (1984).

Based upon the available information, the Tax Commission finds that the taxpayer had an Idaho filing requirement for each of the years 1996 through 1999. Furthermore, the Tax Commission finds the returns the Bureau prepared are a reasonably accurate representation of the taxpayer's Idaho taxable income.

The Bureau added interest and penalty to the taxpayer's Idaho tax per Idaho Code sections 63-3045 and 63-3046. The Tax Commission reviewed these additions and found them appropriate.

WHEREFORE, the Notice of Deficiency Determination dated January 24, 2001, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following tax, penalty and interest:

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>PENALTY</u>	<u>TOTAL</u>
1996	\$2,152	\$843	\$538	\$ 3,533
1997	1,854	564	464	2,882
1998	1,582	360	396	2,338
1999	1,672	258	418	<u>2,348</u>
			TOTAL DUE	<u>\$11,101</u>

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the taxpayer's right to appeal this decision is enclosed with this decision.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2002.

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

## **CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_ day of \_\_\_\_\_, 2002, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]  
[Redacted]

Receipt No. [Redacted]

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ADMINISTRATIVE ASSISTANT 1